IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4124 of 1989

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

THAKORBHAI AMBARAMBHAI GAJJAR

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

Appearance:

1. Special Civil Application No. 4124 of 1989

MR MUKESH H RATHOD for Petitioner No. 1

MR PRANAV G DESAI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA

Date of decision: 15/07/2004

ORAL JUDGEMENT

#. The petitioner-workman has filed this petition under Art.227 of the Constitution of India and challenged the

impugned judgment and award dated 30.9.1988 passed by the Labour Court, Surat whereby the Labour Court partly accepted the reference and quashed and set aside the order of termination of the petitioner from service and instead of that penalty of stoppage of one increment without future effect was imposed. However, back wages was awarded. Therefore, this petition is confined by the petitioner-workman only for the purpose of back wages.

#. Learned counsel Mr.Rathod for the petitioner-workman vehemently submitted that the misconduct committed by the petitioner workman was not that of serious nature, therefore, the Labour Court while setting aside the order of termination and imposing lesser penalty ought to have awarded back wages to the petitioner workman. It is true that the petitioner workman was found guilty for the unauthorisedly remaining absent for a period of more than one month i.e. from 1.3.1987 to 6.4.1987, therefore, the maximum penalty of termination of service was highly disproportionate. Considering this, the Labour Court has intervened in the matter and set aside the maximum penalty of termination imposed by the respondent-Corporation. But the Labour Court also found that indirectly the petitioner workman has also accepted the misconduct committed by him, therefore, imposed minor penalty of stoppage of one increment without future effect keeping in mind the long service of 22 years put on by the petitioner. It seems that because of this only the Labour Court has not awarded the back wages for the intervening period of about 16 months i.e. from the date of termination (20.5.1987) till the date of award (30.9.1988). In any case, when the Labour Court found that the workman was guilty for the misconduct and in that view of the matter if the back wages are not awarded while imposing lesser penalty, then such order cannot be disturbed by this court in its jurisdiction under Art.227 of the Constitution of India.

In view of the above discussion, this petition fails and the same is dismissed. Rule is discharged.

(B.J.Shethna, J.)

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